UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/578,872	02/28/2007	Cliff Aaby	287846US28PCT	8680

88095 7590 07/30/2009

ARRIS
3871 Lakefield Drive
Suwanee, GA 30024

EXAMINER	
CHOKSHI, PINKAL R	
ART UNIT	PAPER NUMBER
2425	

NOTIFICATION DATE	DELIVERY MODE
07/30/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mirho@fspllc.com

Office Action Summary	Application No.	Applicant(s)	
	10/578,872	AABY ET AL.	
	Examiner	Art Unit	
	PINKAL CHOKSHI	2425	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 May 2009*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 05/18/2009 has been entered.

Response to Arguments

2. Applicant's arguments filed 5/18/2009 with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection. See the new rejection below.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-3 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 1-3 teaches “a system comprising: logic to…” where spec discloses that the term “logic” refers to software.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. **Claims 4-16** are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

- Regarding claim 4, Applicant amended claim to teach *a currently rendering*. Examiner can not find the support for this limitation on paragraphs 0047-0051. Applicant to provide support for this limitation.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. **Claims 3-8** are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 7,055,166 to Logan et al (hereafter referenced as Logan).

Regarding **claim 3,** "a content on demand system" reads on the storage that takes place at the server system that distributes content on demand to a receiver units (col.8, lines 4-18) disclosed by Logan and represented in Fig. 1.

As to "system comprising: logic to deliver at least one audio and/or video stream and to insert markers in the at least one stream, the markers indicating a proximity to advertisements in the at least one stream" Logan discloses (col.2, lines 56-59; col.13, lines 11-30) that the receiver receives marking signal embedded in the broadcast programming signal, where marking signal instructs receiver about the particular portion, such as commercials, of the broadcasting programming signal.

As to "the markers indicate a restricting condition to inhibit rendering and/or navigation of the audio and/or video stream according to the restricting condition wherein the restricting condition relates to proximity of an advertisement in the audio and/or video stream" Logan discloses (col.13, lines 11-30) that the marking signal includes a blocking signal (restricting condition) that prevents user from skipping portions (commercials) of the broadcast programming signal.

Regarding **claim 4,** "a set top box" reads on the receiver unit (col.8, lines 4-5) disclosed by Logan and represented in Fig. 1.

As to "STB comprising: logic to scan a currently rendering audio and/or video stream for markers" Logan discloses (col.11, lines 29-36) that the

processor in the receiver scans computer-readable data/programming data to search and generate marking signals.

As to "when one or more markers indicate a restricting condition on a subsection of the stream, inhibiting rendering and/or navigation of the subsection of the audio and/or video stream according to the restricting condition" Logan discloses (col.13, lines 11-30) that the marking signal includes a blocking signal (restricting condition) that prevents user from skipping predefined segment/commercial (subsection of the stream) of the broadcast programming signal.

Regarding **claim 5,** "the set top box wherein the restricting condition further comprises: proximity of an end of the audio and/or video stream" Logan discloses (col.21, lines 1-8; col.3, lines 4-17) that the marking signal indicates information that includes time stamps that defines the beginning and ending of commercials.

Regarding **claim 6,** "the set top box wherein the restricting condition further comprises: proximity of an advertisement in the audio and/or video stream" Logan discloses (col.21, lines 1-8; col.3, lines 4-17) that the marking signal indicates information that includes time stamps that defines the beginning of the commericals.

Regarding **claim 7,** "the set top box wherein the restricting condition further comprises: a rating of content of the audio and/or video stream" Logan discloses (col.3, lines 4-17) that the apparatus receives marking signal that indicates the rating of the program segment.

Regarding **claim 8,** "the set top box wherein the logic to inhibit rendering and/or navigation of the audio and/or video stream further comprises: logic to inhibit at least one of fast forward, rewind, pausing, skipping, or playing of the audio and/or video stream" Logan discloses (col.13, lines 11-30) that the marking signal includes a blocking signal (restricting condition) that prevents user from skipping predefined segment/commercial (subsection of the stream) of the broadcast programming signal.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. **Claims 1 and 2** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,721,829 to Dunn et al (hereafter referenced as Dunn) in view of US Patent 6,115,057 to Kwoh et al (hereafter referenced as Kwoh).

Regarding **claim 1,** "a content on demand system" reads on the user interface unit that is operable in a VOD mode to order and receive video content programs from head-end (abstract) disclosed by Dunn and represented in Fig. 1.

As to "system comprising: logic to receive from a set top box a marker obtained from the stream and comprising position data for an audio and/or video stream for which the set top box has paused or suspended viewing" Dunn discloses (col.6, lines 26-27, 39-55) that the STB transmits a pause message, such as a pointer, to identify the pause point of the VOD program in the memory location that matches to the juncture of the program when paused to the head-end.

As to "upon a signal from the set top box to resume streaming of the audio and/or video stream from a position proximate to the position data indicated by the marker" Dunn further discloses (col.2, lines 8-18; col.7, lines 9-19) that when viewer changes from the VOD to a regular channel, head-end automatically pauses transmission of VOD program, and resume transmission of VOD program based on the program ID and pause point (pointer) stored the database.

As to "server logic to deliver at least one audio and/or video stream and to insert markers in the at least one stream, the markers comprising position data in the at least one stream" Dunn discloses (col.2, lines 4-18 and abstract) that the STB receives video content programs from head-end. However, Dunn does not explicitly teach that the server inserts markers in the stream and markers comprising position data in the stream. Kwoh discloses (col.13, lines 19-22;

col.17, lines 32-45) that the television system delivers video stream and insert a rating data (markers) at the beginning (position data) to mark the beginning of a rated video segment and at the end of a video segment (position data) to mark the end of the video segment or embed the rating data in the VBI to mark the video segment for control viewing of the rated video segment as represented in Figs. 23, 24, and 26. Therefore, it would have been obvious to one of the ordinary skills in the art at the time on the invention to modify Dunn's system by using a stream with markers already presented in the stream as taught by Kwoh in order to provide accurate place of start/end point of a program.

Regarding **claim 2,** "the content on demand system further comprising: logic to deliver at least one audio and/or video stream and to insert markers in the at least one stream, the markers indicating a rating of content of the stream proximate to a position of the marker" Kwoh discloses (col.17, lines 32-45) that the television system delivers video stream and insert a rating data at the beginning to mark the beginning of a rated video segment and at the end of a video segment to mark the end of the video segment or embed the rating data in the VBI to mark the video segment for control viewing of the rated video segment as represented in Figs. 23, 24, and 26. Therefore, it would have been obvious to one of the ordinary skills in the art at the time on the invention to modify Dunn's system by using a stream with markers already presented in the stream as taught by Kwoh in order to provide accurate place of start/end point of a program.

10. **Claim 9** is rejected under 35 U.S.C. 103(a) as being unpatentable over Logan in view of Kwoh.

Regarding **claim 9,** Logan meets all the limitations of the claim except "the set top box wherein logic to inhibit rendering and/or navigation of the audio and/or video stream further comprises: logic to inhibit at least one of viewing or listening of the audio and/or video stream when the rating is mature content." However, Kwoh discloses (col.16, lines 54-61) that when R rating start data is detected, the receiver blocks the R rated video segment for the television screen. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Logan's system by blocking R/Mature rated content from viewing as taught by Kwoh in order to provide parental control which prevents the children from viewing the unsuitable content (col.1, lines 54-56).

11. **Claims 10-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Logan in view of US PG Pub 2003/0188316 to DePrez (hereafter referenced as DePrez).

Regarding **claim 10,** Logan meets all the limitations of the claim except "the set top box further comprising: logic to terminate rendering of the audio and/or video stream when an insufficient number of markers are detected within a time interval." However, DePrez discloses (¶0099) that the system monitors

program information (marker) in the content and when there are no information provided, then the system stops club program content and returns to user's regular programming as represented in Fig. 7A (elements 766, 712). Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Logan's system by terminating audio/video program when markers are not detected in the programming as taught by DePrez so the viewing of subscription/premium programming can be prevented for unauthorized user.

Regarding **claim 11,** "the set top box further comprising: logic to enable rendering and/or navigation of the audio and/or video stream when a marker indicating an end to the restricting condition is encountered in the audio and/or video stream" DePrez discloses (¶0203) that the process for verifying authorized playback of a program where a timer used to prevent excessive viewing while waiting for a response on authorization. If timer expires while waiting for continued viewing to be authorized, then it causes viewing of the program to stop. DePrez further discloses (¶0204) that the user is directed to watch the original program after authorized program timer's stop. In addition, same motivation is used as to rejection to claim 10.

Regarding **claim 12,** "the set top box wherein the restricting condition further comprises: proximity of an end of the audio and/or video stream" Logan discloses (col.21, lines 1-8; col.3, lines 4-17) that the marking signal indicates

information that includes time stamps that defines the beginning and ending of commercials.

Regarding **claim 13,** "the set top box wherein the restricting condition further comprises: proximity of an advertisement in the audio and/or video stream" Logan discloses (col.21, lines 1-8; col.3, lines 4-17) that the marking signal indicates information that includes time stamps that defines the beginning of the commericals.

Regarding **claim 14,** "the set top box wherein the restricting condition further comprises: a rating of content of the audio and/or video stream" Logan discloses (col.3, lines 4-17) that the apparatus receives marking signal that indicates the rating of the program segment.

Regarding **claim 15,** "the set top box wherein the logic to enable rendering and/or navigation of the audio and/or video stream further comprises: the logic to enable at least one of fast forward, rewind, pausing, skipping, or playing of the audio and/or video stream" Logan discloses (col.13, lines 11-30) that the marking signal includes a blocking signal (restricting condition) that prevents user from skipping predefined segment/commercial (subsection of the stream) of the broadcast programming signal.

12. **Claim 16** is rejected under 35 U.S.C. 103(a) as being unpatentable over Logan in view of DePrez as applied to claim 10-15 above, and further in view of Kwoh.

Regarding **claim 16,** combination of Logan and DePrez meets all the limitations of the claim except "the set top box wherein the logic to enable rendering and/or navigation of the audio and/or video stream further comprises: the logic to enable at least one of viewing or listening of the audio and/or video stream when the rating is no longer mature content." However, Kwoh discloses (col.16, lines 54-61) that when R rating start data is detected, the receiver blocks the R rated video segment for the television screen. When R rating end data is detected, the display of G rated video continues. Therefore, it would have been obvious to one of the ordinary skills in the art at the time of the invention to modify Logan and DePrez's systems by blocking R/Mature rated content from viewing as taught by Kwoh in order to provide parental control which prevents the children from viewing the unsuitable content (col.1, lines 54-56).

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US PG Pub 2002/0178443 to Ishii discloses advertisement distribution system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571)

270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Pinkal Chokshi/
Examiner, Art Unit 2425

/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2425